

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

In re

Case No. _____
Chapter 13
Adjustments of Debts

Debtor(s)

CHAPTER 13 PLAN AND IF CHECKED,
[] MOTION TO AVOID LIENS; [] MOTION TO VALUE SECURED PROPERTY
Chapter 13 Plan date _____

THIS PLAN CONTAINS EVIDENTIARY MATTER WHICH, IF NOT CONTROVERTED, MAY BE ACCEPTED BY THE COURT AS TRUE. THIS PLAN MAY BE CONFIRMED BASED ON THE INFORMATION AND VALUATIONS IT CONTAINS IF THERE IS NO OBJECTION FROM CREDITORS. CREDITORS MAY OBJECT TO ITS CONFIRMATION PURSUANT TO BANKRUPTCY CODE § 1324. ANY OBJECTIONS MUST BE IN WRITING AND MUST BE FILED NO LATER THAN TEN DAYS FOLLOWING THE FIRST DATE SET FOR THE § 341(a) MEETING OF CREDITORS. (THE DATE OF THE § 341 (a) MEETING OF CREDITORS CAN BE FOUND IN THE NOTICE OF FILING.) SECURED CREDITORS TAKE NOTE THAT YOUR COLLATERAL IS VALUED UNDER THE CLASS THREE CLAIMS PROVISION OF THIS PLAN. THE TRUSTEE WILL PAY HOLDERS OF SECURED CLAIMS ACCORDING TO THIS PLAN UNLESS AND UNTIL AN OBJECTION IS TIMELY FILED BY THE SECURED CLAIMHOLDER.

The Debtor proposes the following Chapter 13 Plan and makes the following declarations:

I. PROPERTIES AND FUTURE EARNINGS OR INCOME SUBJECT TO THE SUPERVISION AND CONTROL OF THE TRUSTEE:

The Debtor submits the following to the supervision and control of the Trustee:

1. Payments by the Debtor of \$ _____ for _____ months.
Pursuant to Local Rule 6.01:
[] a Wage Withholding Order will be issued to the Debtor's employer.
[] a Motion to Permit Direct Payment has been filed by the Debtor.

2. Other Property: _____
(Specify property or indicate none)

3. Amounts necessary for the payment of post-petition claims allowed under Bankruptcy Code § 1305.

II. PLAN ANALYSIS - TOTAL PAYMENT PROVIDED FOR UNDER THE PLAN
CLASS ONE

(1)	Unpaid attorney's fees	\$ _____
(2)	Taxes	\$ _____
(3)	Educational Benefit Overpayments or Loans	\$ _____
(4)	Other	\$ _____
(b)	CLASS TWO	\$ _____
(c)	CLASS THREE	\$ _____
(d)	CLASS FOUR	\$ _____
(e)	CLASS FIVE	\$ _____
(f)	SUB-TOTAL	\$ _____
(g)	TRUSTEE'S FEES..(Estimated at 10% or the Court established rate of _____ %).....	\$ _____

III. CLASSIFICATION AND TREATMENT OF CLAIMS; AND VALUATION OF SECURED PROPERTY

1. CLASS ONE - *Allowed Unsecured Claims entitled to priority under Bankruptcy Code § 507.* Debtor will pay Class One Claims in full in deferred payments, provided a proof of claim has been filed, as follows:

	PREPETITION PAYMENT TO ATTORNEY	AMOUNT OF PRIORITY CLAIM	MONTHLY PAYMENT	NUMBER OF PAYMENTS	TOTAL PAYMENT
a. Administrative Expenses					
(1) Trustee's Compensation		(Not to exceed 10% of amounts disbursed)			
(2) Attorney's Fees.....	\$ _____	Plus 4% of amounts disbursed			
b. Internal Revenue Service.....		\$ _____	\$ _____	# _____	\$ _____
c. West Virginia Dept. of Revenue		\$ _____	\$ _____	# _____	\$ _____
d. Educational Benefit Overpayment or Loan guaranteed by a governmental unit		\$ _____	\$ _____	# _____	\$ _____
e. Domestic Support obligation arrearage.....		\$ _____	\$ _____	# _____	\$ _____
f. Other.....		\$ _____	\$ _____	# _____	\$ _____

2. CLASS TWO - *Payments on Real Property that is the Debtor's PRINCIPAL RESIDENCE.*
☐ There are no CLASS TWO payments treated under this plan.
☐ Treatment of CLASS TWO claims are depicted on Page 3, attached to this plan.
☐ Debtor's mortgage is treated outside the plan.
3. CLASS THREE and SECURED PROPERTY- *Secured claims not secured solely by a security interest in the Debtor's principal residence which are paid in full under the plan, motor vehicle claims within 910 days of filing, other personal property secured claims within one year of filing*
☐ There are no CLASS THREE payments treated under this plan.
☐ Treatment of CLASS THREE claims are depicted on Page 4, attached to this plan.
4. CLASS FOUR - *Secured claims not secured solely by a security interest in debtor's personal residence which are not under class three*
☐ There are no CLASS FOUR payments treated under this plan.
☐ Treatment of CLASS FOUR claims are depicted on Page 5, attached to this plan.
5. CLASS FIVE - Pro rata, to timely filed and allowed nonpriority unsecured claims, the amounts required by §1325(b)(1). These monies will be distributed in the method indicated in the section marked below. The terms of ¶VIII shall also apply.
☐ The creditors will receive approximately _____% of their claims. Payment of any dividend will depend upon secured claims at the time of confirmation, the total amount of allowed claims, and the costs of administration, including all allowed attorney's fees of the debtor.

COMPARISON TO CHAPTER 7 – The value as of the effective date of the Plan of property to be distributed under the Plan on account of each allowed unsecured claim is not less than the amount that would be paid on such claim if the Estate of the Debtor were liquidated under Bankruptcy Code Chapter 7 on such date. The percentage distribution to general unsecured creditors under Chapter 7 is estimated at _____%.

Unsecured claims must be timely filed in order to be paid!

6. CLASS SIX - *Post-Petition claims under Bankruptcy Code § 1305.* Post-petition claims allowed under Bankruptcy Code §1305 shall be paid in full in equal monthly installments commencing no more than 30 days after entry of an order allowing such claims and concluding on the date of the last payment under the Plan, provided sufficient funds are available under this plan or an amended plan.

V. ENLARGEMENT OF TIME FOR PAYMENTS

The Plan provides for payment over a period of more than 36 months; cause exists as follows:

1. ☐ The Plan proposes to pay at least _____% of unsecured claims.
2. ☐ Other: _____.

VI. DEBTOR'S ABILITY TO MAKE PAYMENTS AND COMPLY WITH THE BANKRUPTCY CODE

Debtor will be able to make all payments and comply with all provisions of the Plan, based upon the availability to the Debtor of the income and property the Debtor proposes to use to complete the Plan. This Plan complies with the provisions of Chapter 13 and all other applicable provisions of the Bankruptcy Code. Any fee, charge, or amount required to be paid under the United States Code or required by the Plan to be paid before confirmation has been paid or will be paid prior to confirmation. The Plan has been proposed in good faith and is not by any means forbidden by law.

VII. MOTION TO AVOID LIENS ON EXEMPT PROPERTY

- ☐ There are no motions to avoid liens filed under this plan.
☐ Motions to avoid liens are attached to this plan on Page 6.

- VIII. OTHER PROVISIONS ☐ There are no other provisions to this plan. ☐ Other provisions are attached to this plan as page 7.

Dated: _____

Attorney for Debtor

I declare under penalty of perjury that the foregoing is true and correct.

Debtor

Joint Debtor

SECURED CREDITORS PLEASE NOTE IF MOTIONS ARE ATTACHED TO THIS PLAN.

THIS PLAN CONTAINS A TOTAL OF _____ PAGES WHICH INCLUDE THE FOLLOWING PAGES AND CONTINUATION SHEETS (check if attached):

☐ MOTION TO AVOID LIENS - (attached page 6) ☐ MOTION TO VALUE SECURED PROPERTY - (attached page 4)

Treatment of CLASS TWO Secured Claims

2. CLASS TWO - *Payments on Real Property that is the Debtor's PRINCIPAL RESIDENCE.*

- ☐ Payments to the lienholder(s) on the Debtor's principal residence are not in default. Future payments under the mortgage contract will be made outside the plan.
- ☐ Payments to the lienholder(s) on the Debtor's principal residence are not in default. Future payments under the mortgage contract will be made under the plan.
- ☐ Payments to the lienholder(s) on the Debtor's principal residence are in default. The arrearage will be cured as indicated below. Future payments under the mortgage contract will be made outside the plan.
- ☐ Payments to the lienholder(s) on the Debtor's principal residence are in default. The arrearage will be cured as indicated below. Future payments under the mortgage contract will be made under the plan.

Claims Against the Debtor's Principal Residence - (If room to list more creditors is needed attach continuation sheet)

a.

Name of Lienholder		Account No.	
Amount of monthly mortgage payment to lienholder	\$ _____		
	MONTHLY PAYMENT		
<input type="checkbox"/> Number and total amount of mortgage payments to be made under the plan <small>(Check this box and complete this line only if contract mortgage payments are to be made under the plan.)</small>		NUMBER OF PAYMENTS	\$ _____ TOTAL CLASS TWO PAYMENTS
<input type="checkbox"/> The default will be cured by monthly payments under the plan. The monthly payments reflect the present value of the arrearage computed at a discount rate of _____ % per annum. <small>(Check this box and complete this line only if the mortgage is in default.)</small>	\$ _____ AMOUNT IN IN DEFAULT	\$ _____ MONTHLY PAYMENT TO CURE DEFAULT	NUMBER OF PAYMENTS
			\$ _____ TOTAL CLASS TWO PAYMENTS

b.

Name of Lienholder		Account No.	
Amount of monthly mortgage payment to lienholder	\$ _____		
	MONTHLY PAYMENT		
<input type="checkbox"/> Number and total amount of mortgage payments to be made under the plan <small>(Check this box and complete this line only if contract mortgage payments are to be made under the plan.)</small>		NUMBER OF PAYMENTS	\$ _____ TOTAL CLASS TWO PAYMENTS
<input type="checkbox"/> The default will be cured by monthly payments under the plan. The monthly payments reflect the present value of the arrearage computed at a discount rate of _____ % per annum. <small>(Check this box and complete this line only if the mortgage is in default.)</small>	\$ _____ AMOUNT IN IN DEFAULT	\$ _____ MONTHLY PAYMENT TO CURE DEFAULT	NUMBER OF PAYMENTS
			\$ _____ TOTAL CLASS TWO PAYMENTS

c.

Name of Lienholder		Account No.	
Amount of monthly mortgage payment to lienholder	\$ _____		
	MONTHLY PAYMENT		
<input type="checkbox"/> Number and total amount of mortgage payments to be made under the plan <small>(Check this box and complete this line only if contract mortgage payments are to be made under the plan.)</small>		NUMBER OF PAYMENTS	\$ _____ TOTAL CLASS TWO PAYMENTS
<input type="checkbox"/> The default will be cured by monthly payments under the plan. The monthly payments reflect the present value of the arrearage computed at a discount rate of _____ % per annum. <small>(Check this box and complete this line only if the mortgage is in default.)</small>	\$ _____ AMOUNT IN IN DEFAULT	\$ _____ MONTHLY PAYMENT TO CURE DEFAULT	NUMBER OF PAYMENTS
			\$ _____ TOTAL CLASS TWO PAYMENTS

d.

Name of Lienholder		Account No.	
Amount of monthly mortgage payment to lienholder	\$ _____		
	MONTHLY PAYMENT		
<input type="checkbox"/> Number and total amount of mortgage payments to be made under the plan <small>(Check this box and complete this line only if contract mortgage payments are to be made under the plan.)</small>		NUMBER OF PAYMENTS	\$ _____ TOTAL CLASS TWO PAYMENTS
<input type="checkbox"/> The default will be cured by monthly payments under the plan. The monthly payments reflect the present value of the arrearage computed at a discount rate of _____ % per annum. <small>(Check this box and complete this line only if the mortgage is in default.)</small>	\$ _____ AMOUNT IN IN DEFAULT	\$ _____ MONTHLY PAYMENT TO CURE DEFAULT	NUMBER OF PAYMENTS
			\$ _____ TOTAL CLASS TWO PAYMENTS

Treatment of CLASS THREE Secured Claims

3. CLASS THREE

THE CLAIMS OF CREDITORS SECURED BY PURCHASE MONEY SECURITY INTEREST IN: i) A MOTOR VEHICLE ACQUIRED FOR PERSONAL USE BY THE DEBTOR(S) WITHIN 910 DAYS PRECEDING THE FILING DATE OF THE PETITION; OR ii) ANY OTHER PERSONAL PROPERTY COLLATERAL ACQUIRED WITHIN ONE (1) YEAR PRECEDING THE FILING DATE OF THE PETITION SHALL BE TREATED AS FULLY SECURED except as provided below, if applicable. The following also applies:

From the payments received pursuant to paragraph 1, if a claim has been timely filed and allowed as secured, make payments to the following holders of such claims as detailed below. ESTIMATED PREPETITION ARREARAGES, IF CURING AND REINSTATING, MUST BE SHOWN BELOW. THE ARREARAGES SHOWN IN A TIMELY FILED AND ALLOWED SECURED CLAIM CONTROL.

<u>Creditor</u>	<u>Collateral</u>	<u>Estimated Arrearage if Curing</u>	<u>Collateral Value if Not Paying in Full</u>	<u>Estimated Total Debt if Paying Debt in Full</u>	<u>Equal Monthly Payments</u>
a.					
b.					
c.					

If the collateral is not to be sold, and the provisions in capital letters above governing claims of creditors with purchase money security interests in personal property do not apply, the value of the collateral, where the debtor is not paying the debt in full, shall be fixed in the amount stated above for purposes of administration of this plan as well as for purposes of determining the amount of any secured claim, if undersecured, unless objected to at or before the first date set for the confirmation hearing on this plan or, if applicable, prior to expiration of time to object to any proposed modified plan, in which case the values will be determined by the court. If the collateral is to be sold, the value shall be the sales price. The debtor MOVES the court for an order so fixing the value of the collateral. Otherwise, the creditor's proof of claim shall control.

MOTION TO VALUE SECURED PROPERTY and Treatment of CLASS FOUR Secured Claims

4. CLASS FOUR - *Secured claims not secured solely by a security interest in the Debtor's principal residence which are paid in full under the plan.* Class Four claims shall be paid in monthly payments as set forth below. Each creditor shall retain its lien until the plan is completed. Where the Secured Claim exceeds the amount of the total claim, the payments reflect a present value computation using a discount rate of _____% per annum not to exceed the amount of the Secured Claim. Payment under this class is on the Secured Claim only. See Class Five for treatment of the unsecured portion of the claim. (If room to list more creditors is needed attach continuation sheet)

NOTICE OF HEARING TO VALUE SECURED PROPERTY

Notice is hereby given that pursuant to Bankruptcy Code § 506(a) the Debtor moves to value the Secured Property listed under Class Three of this plan. The Debtor is the owner of the property serving as collateral, is aware of its condition and believes its value is as set forth below under the heading "Secured Claim." If you object to the motion, you must file your objections within 10 days following the date first set for the § 341(a) Meeting of Creditors. A § 506(a) hearing to value secured property shall be held on the date and at the time set for confirmation of the plan.

a.

Name of Lienholder	Account No.				
Description of Property Secured by Lien:	\$ _____	\$ _____	\$ _____	_____	\$ _____
The amount of the "SECURED CLAIM" column reflects the value the debtor places on this property.	TOTAL CLAIM	SECURED CLAIM (Debtor's Value)	UNSECURED CLAIM	NUMBER OF PAYMENTS	TOTAL CLASS FOUR PAYMENTS

b.

Name of Lienholder	Account No.				
Description of Property Secured by Lien:	\$ _____	\$ _____	\$ _____	_____	\$ _____
The amount of the "SECURED CLAIM" column reflects the value the debtor places on this property.	TOTAL CLAIM	SECURED CLAIM (Debtor's Value)	UNSECURED CLAIM	NUMBER OF PAYMENTS	TOTAL CLASS FOUR PAYMENTS

c.

Name of Lienholder	Account No.				
Description of Property Secured by Lien:	\$ _____	\$ _____	\$ _____	_____	\$ _____
The amount of the "SECURED CLAIM" column reflects the value the debtor places on this property.	TOTAL CLAIM	SECURED CLAIM (Debtor's Value)	UNSECURED CLAIM	NUMBER OF PAYMENTS	TOTAL CLASS FOUR PAYMENTS

d.

Name of Lienholder	Account No.				
Description of Property Secured by Lien:	\$ _____	\$ _____	\$ _____	_____	\$ _____
The amount of the "SECURED CLAIM" column reflects the value the debtor places on this property.	TOTAL CLAIM	SECURED CLAIM (Debtor's Value)	UNSECURED CLAIM	NUMBER OF PAYMENTS	TOTAL CLASS FOUR PAYMENTS

e.

Name of Lienholder	Account No.				
Description of Property Secured by Lien:	\$ _____	\$ _____	\$ _____	_____	\$ _____
The amount of the "SECURED CLAIM" column reflects the value the debtor places on this property.	TOTAL CLAIM	SECURED CLAIM (Debtor's Value)	UNSECURED CLAIM	NUMBER OF PAYMENTS	TOTAL CLASS FOUR PAYMENTS

V. MOTION TO AVOID LIENS ON EXEMPT PROPERTY

Notice is hereby given that the Debtor moves to avoid the following liens on exempt property pursuant to Bankruptcy Code § 522(f), and to treat such creditors as unsecured creditors only. The Debtor represents that the security interest held by the creditors in the property listed below impairs an exemption to which the Debtor would be entitled under West Virginia Code § 38-10-4 and that the property is the type described under Bankruptcy Code § 522(f). If you object to the motion, you must file an objection

a. Name of Creditor: _____
Description of Property: _____
Amount claimed as exempt on Schedule C: \$ _____
Estimated market value of Property: \$ _____
Amount of Lien: \$ _____ Date Recorded: _____ County _____
Type of Lien: ☐ Judicial Lien ☐ Nonpossessory, Nonpurchase-money Security Interest ☐ Tax Lien

b. Name of Creditor: _____
Description of Property: _____
Amount claimed as exempt on Schedule C: \$ _____
Estimated market value of Property: \$ _____
Amount of Lien: \$ _____ Date Recorded: _____ County _____
Type of Lien: ☐ Judicial Lien ☐ Nonpossessory, Nonpurchase-money Security Interest ☐ Tax Lien

c. Name of Creditor: _____
Description of Property: _____
Amount claimed as exempt on Schedule C: \$ _____
Estimated market value of Property: \$ _____
Amount of Lien: \$ _____ Date Recorded: _____ County _____
Type of Lien: ☐ Judicial Lien ☐ Nonpossessory, Nonpurchase-money Security Interest ☐ Tax Lien

Absent objection from a creditor, filed prior to the first date set for the confirmation hearing on this plan, the order of confirmation will avoid its lien and its claim will be treated as unsecured but only if a claim is timely filed. Any timely filed objections will be heard at the confirmation hearing.

VII I. OTHER PROVISIONS

- [] 1. The debtor ASSUMES the following executory contracts and leases:
- | Creditor | Amount of Default [State if None] | Cure Provisions |
|----------|-----------------------------------|-----------------|
|----------|-----------------------------------|-----------------|

Those executory contracts or leases not specifically mentioned above are treated as rejected. Any timely filed and allowed claim arising from rejection shall be treated under ¶2(f). The debtor will pay all assumed executory contracts and leases directly, including amounts required to cure. The debtor shall surrender any property covered by rejected executory contracts or leases to the affected creditor no later than upon confirmation of this plan.

- [] 2. The debtor shall pay directly to each of the following creditors, whose debts are either full secured or are secured only by a security interest in real property that is the debtor's principal residence, the regular payment due postpetition on these claims in accordance with the terms of their respective contracts, list any prepetition arrearages in paragraph 2(b), and/or specify any other treatment of such secured creditor(s) in an additional paragraph at the end of this plan:

- [] 3. Debtor hereby abandons the following personal or real property:

- [] 4. Miscellaneous Provisions (specify):

- [] 5. This plan may be altered postconfirmation in a non-material manner by court order after notice to the debtor, the trustee, any creditor whose claim is the subject of the modification and any interested party who has requested special notice.

- [] 6. Debtor(s) certifies that all postpetition domestic support obligations have been paid in full on the date of this plan and will be paid in full at the time of the confirmation hearing.

- [] 7. Debtor(s) further certifies that the petition was filed in good faith, and this plan was proposed in good faith and not by any means forbidden by law.

DEBTOR

DEBTOR

IN ORDER TO ASSURE PROPER SERVICE ON ALL CREDITORS LISTED IN PARAGRAPHS 2(b)(1), 2(b)(2), or 6 OF THE PLAN pursuant to Rules 3012, 4003(d), 9014, and 7004 of the Federal Rules of Bankruptcy Procedure (FRBP): (a) I LISTED ON THE MAILING MATRIX such creditors, other than insured depository institutions, in care of a person or entity authorized to be served; AND (b) I SERVED VIA CERTIFIED MAIL, ON _____ (date), COPIES OF THIS PLAN ON any insured depository institution(s) affected by paragraphs 2(b)(1), 2(b)(2), or 6 of the Plan [FRBP 7004(h)]; AND (c) THE FOLLOWING LIST SEPARATELY IDENTIFIES all such creditors served via matrix listing and such creditors served via certified mail INCLUDING the names AND addresses of ALL such creditors served (NOTE: with respect to creditors served via matrix listing, the list of names and addresses IS IDENTICAL to that included in the matrix.)

DEBTOR OR DEBTOR'S ATTORNEY